

BEFORE THE ARIZONA MEDICAL BOARD

In the Matter of

MICHAEL E. JAMES, M.D.

Holder of License No. 24537
For the Practice of Allopathic Medicine
In the State of Arizona.

Case No. MD-14-1276A

**ORDER FOR PROBATION AND
CONSENT TO THE SAME**

Michael Eugene James, M.D. ("Respondent") elects to permanently waive any right to a hearing and appeal with respect to this Order for Probation; admits the jurisdiction of the Arizona Medical Board ("Board"); and consents to the entry of this Order by the Board.

FINDINGS OF FACT

1. The Board is the duly constituted authority for the regulation and control of the practice of allopathic medicine in the State of Arizona.

2. Respondent is the holder of license number 24537 for the practice of allopathic medicine in the State of Arizona.

3. The Board initiated case number MD-14-1276A after receiving a report from the Board's Physician Health Program ("PHP") contractor that Respondent underwent an assessment on September 9, 2014 and was found unsafe to practice.

4. Respondent was referred for a PHP assessment by his employer set to be held on September 9, 2014. PHP found that Respondent was unsafe to practice and in need of residential treatment. Respondent agreed to the diagnosis and the need for treatment.

5. The aforementioned information was presented to the investigative staff, the medical consultant and the lead Board member. All reviewed the information and concurred that an interim consent agreement to restrict Respondent's practice was appropriate. Respondent was offered an Interim Consent Agreement for a Practice

1 Restriction on September 11, 2015 and Board staff requested that he return the Interim
2 Consent Agreement by 5:00 P.M. on September 12, 2015. Respondent did not sign the
3 Interim Consent Agreement, despite numerous attempts to contact him by Board staff.

4 6. The Board considered the matter at its meeting on October 1, 2014 and
5 voted to summarily suspend Respondent's license based on the finding that the public
6 health, safety, or welfare imperatively required emergency action by the Board.

7 7. It was later reported to the Board that Respondent was involved in a motor
8 vehicle accident on September 15, 2014 and sustained head trauma. Respondent was
9 intoxicated at the time of the accident. On October 2, 2014, Respondent was discharged
10 from the hospital to a rehabilitation facility, where he remained until October 18, 2014. On
11 October 23, 2014, Respondent presented for a health assessment as ordered by the
12 Board, and PHP opined that he remained unsafe to practice medicine and that
13 Respondent required inpatient substance use disorder treatment for a minimum of 30 days
14 up to 90 days based on his clinical progress. A urine drug screen on the day of the
15 October 23, 2014 assessment was positive for Ethylglucuronide.

16 8. Respondent entered into inpatient residential treatment on December 9,
17 2014 and was successfully discharged with staff approval on February 13, 2015. While
18 Respondent was at residential treatment, he underwent both psychiatric and psychological
19 evaluations including neuropsychological testing which found that Respondent's cognitive
20 function had not been significantly impacted. Respondent's treating psychiatrist
21 recommended ongoing individual psychotherapy. Respondent met with PHP for a follow
22 up assessment on February 19, 2015, and PHP found him to be safe to practice with
23 participation in PHP for a minimum of five years.

1 **CONCLUSIONS OF LAW**

2 1. The Board possesses jurisdiction over the subject matter hereof and over
3 Respondent.

4 2. The conduct and circumstances described above constitute unprofessional
5 conduct pursuant to A.R.S. § 32-1401(27)(f) ("[h]abitual intemperance in the use of alcohol
6 or habitual substance abuse.").

7 **ORDER**

8 IT IS HEREBY ORDERED THAT:

9 1. This Order vacates the Summary Suspension Order dated October 1, 2014.
10 Respondent's license is placed on Probation for five years and is subject to his continued
11 participation in the Board's Physician Health Program ("PHP") and compliance with the
12 following terms and conditions:

13 2. Respondent shall not consume alcohol or any food or other substance
14 containing poppy seeds or alcohol.

15 3. Respondent shall not take any illegal drugs or mood altering medications.

16 4. Respondent shall attend the PHP's relapse prevention group therapy
17 sessions one time per week for the duration of this Order, unless excused by the relapse
18 prevention group facilitator for good cause. Individual relapse therapy may be substituted
19 for one or more of the group therapy sessions, if PHP pre-approves substitution. The
20 relapse prevention group facilitators or individual relapse prevention therapist shall submit
21 monthly reports to the PHP regarding attendance and progress.

22 5. If requested by the PHP, Respondent shall attend ninety 12-step meetings or
23 other self-help group meetings appropriate for substance abuse and approved by the
24 PHP, for a period of ninety days. Upon completion of the ninety meetings in ninety days,
25 Respondent shall participate in a 12-step recovery program or other self-help program

1 appropriate for substance abuse as recommended by the PHP. Respondent shall attend a
2 minimum of three 12-step or other self-help program meetings per week. Two meetings
3 per month must be Caduceus meetings. Respondent must maintain a log of all self-help
4 meetings.

5 6. Respondent shall promptly obtain a primary care physician ("PCP") and shall
6 submit the name of the physician to the PHP in writing for approval. The approved PCP
7 shall be in charge of providing and coordinating Respondent's medical care and treatment.
8 Except in an *Emergency*, Respondent shall obtain medical care and treatment only from
9 the PCP and from health care providers to whom the PCP refers Respondent. Respondent
10 shall promptly provide a copy of this Order to the PCP. Respondent shall also inform all
11 other health care providers who provide medical care or treatment that Respondent is
12 participating in PHP. "Emergency" means a serious accident or sudden illness that, if not
13 treated immediately, may result in a long-term medical problem or loss of life.

14 7. All prescriptions for controlled substances shall be approved by the PHP
15 prior to being filled except in an *Emergency*. Controlled substances prescribed and filled in
16 an emergency shall be reported to the PHP within 48 hours. Respondent shall take no
17 *Medication* unless the PCP or other health care provider to whom the PCP refers
18 Respondent prescribes and the PHP approves the *Medication*. Respondent shall not self-
19 prescribe any *Medication*. "Medication" means a prescription-only drug, controlled
20 substance, and over-the counter preparation, other than plain aspirin, plain ibuprofen, and
21 plain acetaminophen.

22 8. Respondent shall submit to random biological fluid, hair, and/or nail testing
23 for five years from the date of this Order (as specifically directed below) to ensure
24 compliance with PHP.

25 9. Respondent shall provide the PHP in writing with one telephone number that

1 shall be used to contact Respondent on a 24 hour per day/seven day per week basis to
2 submit to biological fluid, hair, and/or nail testing to ensure compliance with PHP. For the
3 purposes of this section, telephonic notice shall be deemed given at the time a message to
4 appear is left at the contact telephone number provided by Respondent. Respondent
5 authorizes any person or organization conducting tests on the collected samples to
6 provide testing results to the PHP. Respondent shall comply with all requirements for
7 biological fluid, hair, and/or nail collection. Respondent shall pay for all costs for the
8 testing.

9 10. Respondent shall provide the PHP with written notice of any plans to travel
10 out of state.

11 11. Respondent shall immediately notify the Board and the PHP in writing of any
12 change in office or home addresses and telephone numbers.

13 12. Respondent provides full consent for the PHP to discuss the Respondent's
14 case with the Respondent's PCP or any other health care providers to ensure compliance
15 with PHP.

16 13. The relationship between the Respondent and the PHP is a direct
17 relationship. Respondent shall not use an attorney or other intermediary to communicate
18 with the PHP on participation and compliance issues.

19 14. Respondent shall be responsible for all costs, including costs associated with
20 participating in PHP, at the time service is rendered or within 30 days of each invoice sent
21 to the Respondent. An initial deposit of two months PHP fees is due upon entering the
22 program. Failure to pay either the initial PHP deposit or monthly fees 60 days after
23 invoicing will be reported to the Board by the PHP and may result in disciplinary action up
24 to and including license revocation.

25 15. Respondent shall immediately provide a copy of this Order to all employers,

1 hospitals and free standing surgery centers where Respondent currently has or in the
2 future gains or applies for employment or privileges. Within 30 days of the date of this
3 Order, Respondent shall provide the PHP with a signed statement of compliance with this
4 notification requirement. Respondent is further required to notify, in writing, all employers,
5 hospitals and free standing surgery centers where Respondent currently has or in the
6 future gains or applies for employment or privileges, of a chemical dependency relapse or
7 violation of this Order.

8 16. In the event Respondent resides or practices in a state other than Arizona,
9 Respondent shall participate in the rehabilitation program sponsored by that state's
10 medical licensing authority or medical society. Respondent shall cause the monitoring
11 state's program to provide written quarterly reports to the PHP regarding Respondent's
12 attendance, participation, and monitoring. The monitoring state's program and Respondent
13 shall immediately notify the PHP if Respondent is non-compliant with any aspect of the
14 monitoring requirements or is required to undergo any additional treatment.

15 17. The PHP shall immediately notify the Board if Respondent is non-compliant
16 with any aspect of the monitoring requirements or this Order.

17 18. Respondent shall immediately obtain a treating psychotherapist approved by
18 the PHP Contractor and shall remain in treatment with the psychotherapist for the duration
19 of probation. Respondent shall instruct the psychotherapist to release to the PHP
20 Contractor, upon request, all records relating to Respondent's treatment, and to submit
21 quarterly reports to the PHP Contractor regarding diagnosis, prognosis, medications, and
22 recommendations for continuing care and treatment of Respondent. Respondent shall
23 provide the psychotherapist with a copy of this Order. Respondent shall pay the expenses
24 of all the psychotherapy and for the preparation of the quarterly reports.

25 19. In the event of chemical dependency relapse by Respondent or

1 Respondent's use of controlled substances or alcohol in violation of this Order,
2 Respondent shall promptly enter into an Interim Consent Agreement for Practice
3 Restriction that requires, among other things, that Respondent not practice medicine until
4 such time as Respondent successfully completes long-term inpatient treatment for
5 chemical dependency designated by the PHP and obtains affirmative approval from the
6 Executive Director, in consultation with the Lead Board Member and Chief Medical
7 Consultant, to return to the practice of medicine. Prior to approving Respondent's request
8 to return to the practice of medicine, Respondent may be required to undergo any
9 combination of physical examination, psychiatric or psychological evaluation. In no respect
10 shall the terms of this paragraph restrict the Board's authority to initiate and take
11 disciplinary action for violation of this Order.

12 19. Respondent shall obey all federal, state and local laws, and all rules
13 governing the practice of medicine in the State of Arizona.

14 20. Respondent shall appear in person before the Board and/or its staff and PHP
15 for interviews upon request, with reasonable notice.

16 21. This Order supersedes all previous consent agreements and stipulations
17 between the Board and/or the Executive Director and Respondent and is the final
18 resolution of this matter.

19 22. Prior to the termination of Probation, Respondent must submit a written
20 request to the Board for release from the terms of this Order. Respondent's request for
21 release will be placed on the next pending Board agenda, provided a complete submission
22 is received by Board staff no less than 14 days prior to the Board meeting. Respondent's
23 request for release must provide the Board with evidence establishing that he has
24 successfully satisfied all of the terms and conditions of this Order. The Board has the sole
25 discretion to determine whether all of the terms and conditions of this Order have been

1 met or whether to take any other action that is consistent with its statutory and regulatory
2 authority.

3
4 DATED AND EFFECTIVE this 2nd day of April, 2015.

6 ARIZONA MEDICAL BOARD

7 By Patricia E. McSorley
8 Patricia E. McSorley
9 Executive Director

10 **CONSENT TO ENTRY OF ORDER**

11
12 1. Respondent has read and understands this Consent Agreement and the
13 stipulated Findings of Fact, Conclusions of Law and Order ("Order"). Respondent
14 acknowledges he has the right to consult with legal counsel regarding this matter.

15 2. Respondent acknowledges and agrees that this Order is entered into freely
16 and voluntarily and that no promise was made or coercion used to induce such entry.

17 3. By consenting to this Order, Respondent voluntarily relinquishes any
18 rights to a hearing or judicial review in state or federal court on the matters alleged,
19 or to challenge either the Summary Suspension Order dated October 1, 2014 and
20 this Order in its entirety as issued by the Board, and waives any other cause of
21 action related thereto or arising from said Order.

22 4. The Order is not effective until approved by the Board and signed by its
23 Executive Director.

24 5. All admissions made by Respondent are solely for final disposition of this
25 matter and any subsequent related administrative proceedings or civil litigation involving
the Board and Respondent. Therefore, said admissions by Respondent are not intended

1 or made for any other use, such as in the context of another state or federal government
2 regulatory agency proceeding, civil or criminal court proceeding, in the State of Arizona or
3 any other state or federal court.

4 6. Upon signing this agreement, and returning this document (or a copy thereof)
5 to the Board's Executive Director, Respondent may not revoke the consent to the entry of
6 the Order. Respondent may not make any modifications to the document. Any
7 modifications to this original document are ineffective and void unless mutually approved
8 by the parties.


9 7. This Order is a public record that will be publicly disseminated as a formal
10 disciplinary action of the Board and will be reported to the National Practitioner's Data
11 Bank and on the Board's web site as a disciplinary action.

12 8. If any part of the Order is later declared void or otherwise unenforceable, the
13 remainder of the Order in its entirety shall remain in force and effect.

14 9. If the Board does not adopt this Order, Respondent will not assert as a
15 defense that the Board's consideration of the Order constitutes bias, prejudice,
16 prejudgment or other similar defense.

17 10. Any violation of this Order constitutes unprofessional conduct and may result
18 in disciplinary action. A.R.S. § § 32-1401(27)(r) ("[v]iolating a formal order, probation,
19 consent agreement or stipulation issued or entered into by the board or its executive
20 director under this chapter") and 32-1451.

21 11. *Respondent has read and understands the conditions of probation.*

22
23 
24 Micheal E. James, M.D.
25 *Micheal E James, MD*

DATED: March 27, 2015

1 EXECUTED COPY of the foregoing mailed
2 this 2nd day of April, 2015 to:

3 Jamie Sparks, Esq.
4 Law Office of Jamie Sparks, PLC
5 1001 N. Central Avenue, Ste. 660
6 Phoenix AZ 85004
7 Attorney for Respondent

8 Michael Eugene James, M.D.
9 Address of Record

10 ORIGINAL of the foregoing filed
11 this 2nd day of April, 2015 with:

12 Arizona Medical Board
13 9545 E. Doubletree Ranch Road
14 Scottsdale, AZ 85258

15 Mary B. Brey
16 Board Staff